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# Debt Legislation

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(With an Introduction on Previous Legislation)

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# Débt Legislation

## Introductory, 1935-39

For many years the private debt situation has been one of the most serious problems in Western Canada, and it is common knowledge that the present Government has consistently endeavoured to deal with this ever since it assumed office in 1935. Prior to the depression years, while property values and farm prices were high, many individuals, in both country and urban districts, incurred heavy debts under mortgages, bearing heavy interest rates, confident of their ability to meet their obligations. Through no fault of their own, prices of farm products fell to ruinous levels and property values declined correspondingly, with the result that these persons found themselves unable to meet the interest and repayment of principal under their contracts. Very soon it became evident that the accumulation of unpaid interest, added to the outstanding debt, made it impossible for individuals to meet their debt obligations. Any fair minded person must agree that a complete adjustment of these old debts is long overdue if our citizens are to be expected to meet the necessary financing of their current operations and the sanctity of the home under our democratic constitution is to be safeguarded.

One of the first acts of the Social Credit Legislature was to amend and consolidate The Debt Adjustment Act passed by the U.F.A. Government in 1933, to provide protection for all private debtors whereas previously farmers were the only ones who had received any real protection at all. In 1936, we also passed The Reduction and Settlement of Debts Act, whereby all payments made on all old debts since July 1st, 1932, were to be applied on the reduction of the principal of such debt. This Act would have dealt with those debts in a most equitable manner, the adjustment being proportionate to the accumulated

interest. But this Act was declared ultra vires by the courts. It would seem that over a number of years the financial interests have been successful in building up far-reaching laws to protect themselves against any action which would weaken their stranglehold on the people.

At practically every Session of the Legislature, the present Government has amended The Debt Adjustment Act to strengthen any apparent weakness. During the 1937 and 1938 Sessions legislation was enacted to enable a moratorium on certain debts to be declared by Order in Council to meet emergency conditions; and you will recall that this expedient was used on one occasion.

Other fields have been explored—in some cases with success, but in others the action has been met by disallowance or successful appeals to the courts by the financial interests.

In the 1938 Session The Vendors and Mortgagees Costs Exaction Act was enacted outlawing the charging of debtors with collection costs with regard to all debts incurred prior to the passing of the Act. Again in the 1939 Session two important amendments to the statutes have stood the test: The first was an amendment to The Judicature Act which eliminates the deficiency judgment in the case of the sale of land for debt, including both town and country property. That is, if the proceeds from the sale of such property did not meet the whole of the financial obligation there can be no judgment held against the debtor for the balance. The second was an amendment to The Land Titles Act removing the attornment clause, which made it impossible for the debtor to be reduced to the status of a mere tenant of the creditor who holds the mortgage or agreement of sale against the said property.

Other attempts to relieve the debtor did not meet with the same success. The Agricultural Land Relief Act of 1938, which would have based the farmer's taxes on his production rather than a blanket mill rate on the assessed value of his land, was thrown out by the courts. Another Act passed in 1938 and subsequently declared ultra vires was an amendment to The Limitation of Actions Act which

would have induced the creditor to make a new agreement with his debtor before July 1st, 1940, with the object of effecting a fair adjustment between the two parties. In the next year we again passed a similar Act extending the time to June 1st, 1942, and it was likewise declared ultra vires by the courts. In the 1938 Session we passed The Home Owners Security Act to induce creditors to make settlement on an equitable basis and to put the sanctity of the home ahead of the sanctity of contract, but this met with prompt disallowance by the Ottawa Government. Another Act of the same Session, The Securities Tax Act, passed in an attempt to transfer some of the burden of taxation from the individual to the financial institutions, met the same fate.

It will be apparent from what I have said that the Aberhart Government has striven courageously to assist our debt-ridden people. If it has not produced the results you desired, it is the fault of those who have stubbornly thwarted the constitutional authority of the Alberta Government to whom the people gave a very specific mandate concerning these matters.

## DEBT LEGISLATION PASSED DURING 1941 SESSION

### The Debt Adjustment Act

Developments concerning debt legislation just previous to the opening of the last Session were found to be startling and far-reaching. After a long battle in the courts our Debt Adjustment Act had definitely been ruled ultra vires with respect to promissory notes and bills of exchange. This meant that court proceedings for collection on a promissory note could be taken without first having to obtain a permit from the Debt Adjustment Board. The portions of the Act dealing with mortgages and agreements for sale were left intact, but an important feature in the way of debt protection had become null and void.

### The Legal Proceedings Suspension Act

The debt situation became more serious at the time of the 1941 Session of the Legislature when a number

of court actions were begun challenging the validity of The Debt Adjustment Act. Since these actions attacked the Act from a number of angles a great deal of needless litigation was involved. The Government was forced to defend the Act on many fronts or attempt to stay all actions and refer the whole Act as a unit to the courts for a decision on its validity. The Government decided to adopt the latter course. Accordingly The Legal Proceedings Suspension Act was introduced in the Legislature, the purpose of which was to stay court proceedings on these actions for a period of sixty days and to provide for reference of The Debt Adjustment Act to the courts for a decision on its validity. While the Act was being considered one of the actions referred to, challenging the validity of The Debt Adjustment Act, was dealt with by the courts and a judgment handed down declaring the Act ultra vires. But before the judgment was entered The Legal Proceedings Suspension Act was passed by the Legislature and came into force. This Act in turn was immediately declared invalid. The judgment in regard to The Debt Adjustment Act was then entered and the whole question of debt remained more unsettled than ever. Subsequently both the Statutes we have been discussing have been referred to higher courts for a decision in regard to their validity.

Should the higher courts decide that The Debt Adjustment Act is invalid, such decision will unquestionably affect similar debt legislation of other provinces. The resulting hardship this will cause to the farmers of the west in the most critical year in agriculture's history should be evident to all, and the financial institutions who must accept the blame for this situation must also accept the responsibility for the conditions their actions have created.

### The Exemptions Act

However, keeping in mind that The Debt Adjustment Act, upon which our people have so implicitly relied, might become absolutely ineffective, for a time at least, your elected representatives took a number of other precautionary steps. The exemptions under The Exemptions Act

were considerably extended by passing a new consolidated Act. The following property of an individual debtor are now free from seizure:

In the case of debtors in general:

- (1) Necessary and ordinary clothing for himself and family.
- (2) Furniture, including household furnishings and appliances, to the value of \$700.00.
- (3) Either one automobile to the value of \$800.00 or a motor truck required in his trade or calling.
- (4) The books of a professional man required in his profession.
- (5) The necessary tools, implements and equipment to the value of \$500.00 used in his trade or profession.
- (6) The house occupied by the debtor unless same is valued at more than \$3,000, and if valued at more than \$3,000 that amount of the proceeds from an execution sale must be paid to the debtor so that he may provide himself with another home.

In the case of a farmer or primary producer: he must have exempt from seizure, sufficient of his produce to provide:

- (1) Food and other necessities of life required by himself and family for the next ensuing 12 months.
- (2) The necessary cash to pay any debts incurred in the growing and harvesting of his crop, or debts incurred during the previous six months for finishing live stock for market.
- (3) Current taxes and one year's instalment of consolidated arrears.
- (4) The necessary cash for his farming operations for the next 12 months and repair and replacement of necessary implements or machinery during that period.

Also a farmer shall have exempt from seizure:

- (5) Animals, machinery and equipment reasonably necessary for his operations of the next 12 months.
- (6) One tractor and one automobile (to the value of \$800), or motor truck required for his farming purposes.
- (7) Sufficient seed grain.
- (8) The homestead, not exceeding 160 acres, actually occupied by him.

Nothing in this Act prevents seizure for the payment of a hospital bill in any year to the amount of \$200 or chattel mortgages held by the Canadian Farm Loan Board. Such an act obviously provides a considerable measure of security for the debtors of Alberta.

#### The Orderly Payment of Land Debts Act

Another Act of the last Session is known as The Orderly Payment of Land Debts Act. It applies to such mortgages or agreements for sale which were incurred before July 1st, 1936. In the case of a farmer, he will not be deemed to be in default if he makes the following payment in each year on such debt:

- (1) If yield less than 10 bushels per seeded acre—none.
- (2) If yield less than 15 bushels per seeded acre— $\frac{1}{5}$  of crop.
- (3) If yield more than 15 bushels per seeded acre— $\frac{1}{4}$  of crop.

The provisions of this Act cannot, of course, apply to payments owing to either the Canadian Farm Loan Board or the Soldiers Settlement Board.

In the case of an urban debtor, he will not be deemed to be in default if he makes the following payment in each year on such debt:

- (1) If gross income is less than \$1,000—nil.
- (2) If gross income is less than \$1,500—10 per cent of same.

- (3) If gross income is less than \$2,000—15 per cent of same.
- (4) If gross income is less than \$2,500—20 per cent of same.

Remember, this Act applies only to debts owing on farm or urban property which were incurred before July 1st, 1936, but it provides considerable protection in the case of such old debts.

### The Crop Liens Priorities Act

In relation to the debt question, there has been a need to clear up the confusion regarding crop liens. Accordingly The Crop Liens Priorities Act was passed at the last Session. In the past there have been a number of Acts authorizing various liens on growing crops, and in every instance each was described as a prior lien. Besides causing confusion, this has jeopardized the farmer's chances of obtaining essential credit at a time when such aid was vitally needed to complete his harvesting or threshing operations.

The Crop Liens Priorities Act establishes the order of priority of the various crop liens, giving first place to those related to the threshing and harvesting operations which necessarily must be carried out before any of the liens which follow can have any value. As a result this Act gives priority to seven different crop liens and sets them out in the following order: (1) The Threshers' Lien. (2) The Harvesting Liens. (3) The Alberta Hail Insurance Act Lien. (4) The Bills of Sale Act Liens in respect to necessities (groceries, etc.). (5) Taxes of Municipal Districts, Improvement Districts and Irrigation Districts. (6) Seed grain and such other municipal and agricultural advances. (7) Liens under The Alberta Co-operative Rural Credit Act. The Harvesting Liens Act was passed to cover definitely wages, binder twine, fuel oil, repairs and rentals for machinery. Another amendment to The Threshers' Lien Act gives municipal authorities wider powers in obtaining full particulars of crops threshed by individual threshermen.

## The Debt Proceedings Suspension Act

As a final safeguard we passed The Debt Proceedings Suspension Act which authorizes a moratorium to be declared at any time by Order in Council on debts incurred prior to July 1st, 1936. Should a critical situation develop necessitating drastic action this Act may be proclaimed.

## The Emergency Disposition of Crops Act

Another law now on the statute books is The Emergency Disposition of Crops Act. From all appearances at the present time the wheat situation will be even worse this coming fall than it was in 1940. This Act gives the Lieutenant Governor in Council very wide powers to do anything within the authority of the Province, which might help to relieve any adverse developments in the matter. You will remember the Government by Order in Council took such action last fall to free the first five bushels of wheat delivered to meet credits advanced for harvesting and threshing operations. This action was ratified by the Legislature at the last Session, and the necessary authority was conferred on the Lieutenant Governor in Council to meet any future emergency.

## The Soldiers' Relief Act

You will recall, at the outbreak of war, an Order in Council was passed by the Alberta Government to relieve soldiers on active service with respect to old debt obligations and the payment of taxes until after the conclusion of the conflict. During the 1940 Session this Order in Council was incorporated in The Soldiers' Relief Act. During the 1941 Session an Amendment was made to the effect that property would have to be purchased at least six months before enlistment in order that the soldier would be relieved from such obligations, and he would have to be in the service six months before receiving benefits under the Act. This Act applies to a soldier whether he is on active service in Canada or abroad as long

as he is taken away from his usual occupation. Provision is made for the dependants of a soldier to appeal to a judge with respect to any deserving circumstances which might not be covered by the Act.

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Thus, it will be admitted, your Government has done much to legislate for the relief of unbearable debt. However, we must bear in mind that the interests of creditors, particularly individuals, must be safeguarded as well as those of the debtor. If at any time merchants or other individuals feel that a debtor is not doing all he could in making payments on an obligation they may apply to the Debt Adjustment Board. There is machinery provided to see that an unscrupulous debtor does not take an unfair advantage of legislation designed to protect the man who cannot pay his debts through no fault of his own. With the debt protection provided in this Province the farmer or other debtor is freed from the pressure of financial institutions trying to grab everything, and he should make every effort to pay his store bills and other obligations owing to individuals.

As long as the present money policy is retained, the accumulation of debt is an unavoidable evil—it is a debt-creating system. You are fully aware of the efforts being made by the Alberta Government to establish a sane monetary policy—and, until this is accomplished, there can be no fundamental solution for the debt problem. While you may rely upon the Government to do everything possible, in a democracy it is essential that the people recognize their responsibility in giving their wholehearted support to action designed to protect their rights of citizenship and give them the results they want.